

### REMARKS

Claims 1-24 have been rejected under 35 USC 102(e) as being anticipated by Budge. Claim 1 is discussed as representative of all the claims insofar as the present rejection is concerned. First, Applicant has amended claim 1 so that it is clear that the “composing user compos[es] a message on the first email messaging program” and that this “composing user record[s] media on the first email messaging program.” (See, e.g., patent application as filed, paragraph [0027].)

Second, Applicant has amended claim 1 to also make it clear that “the first email messaging program sends the message and the media over the network by itself, without having to use any other email messaging program on the first client.” The patent application as filed explicitly notes that: **“A user can send email with recorded media using his or her everyday email messaging program, without having to resort to another program.”** (Para. [0011]) In addition, throughout the patent application as filed, there is just a single computer program – the email messaging program – that is described as sending an email message with associated media over the network. For instance, “[t]he email message 112 is sent by the email messaging program 110 through the network 106.” (Para. [0028]) Nowhere in the patent application as filed is it thus described that any other computer program at the first client is employed to assist the email messaging program in this respect.

The email messaging program, in other words, is completely described within the patent application as filed as sending an email message with the associated media, by itself, without ever having to use any other email messaging program on the first client. Thus, it is just the email messaging program that “sends the message” over the network (para. [0008]), and that has “functionality related to email messages” such as “sending emails” (para. [0025]). In this respect, “a user of the email messaging program does not have to exit the program, and access a separate program, in order to take advantages of such capabilities” like “built-in video and/or media recording and/or playback capabilities.” (Para. [0010]) Rather, all of this functionality is

performed by the email messaging program – a single computer program that sends messages over a network by itself, without having to use any other email messaging program, as specifically recited in claim 1.

Now, the Examiner continues to rely on the video e-mail software 50 of Budge as corresponding to the email messaging program of the claimed invention. However, the software 50 in Budge only permits a user to record media – and it does not send the message with the recorded media “over the network by itself, without having to use any other email messaging program,” in contradistinction to the claimed invention. For instance, Budge discloses that “the sending system PC 10 executes video e-mail software 50 which provides for the creation of video e-mail messages *and the transfer of those messages to a conventional e-mail client.*” (Col. 3, ll. 37-42.) Thus, in Budge, what occurs is that a user creates a video e-mail message within the software 50, which is one computer program. The video e-mail software 50 then sends this message to another computer program – a conventional e-mail client – which then sends the video e-mail message over the network.

That is, the difference between Budge and the claimed invention is this: in the claimed invention, the first email messaging program on which a user records media and on which the user composes a message *is also the same program that sends the message and the media over the network, by itself, without having to use any other email messaging program.* By comparison, in Budge, the software 50 on which a user records media and on which the user composes a message is **NOT** the same program that sends the message and the media over the network – rather, a *different computer program – the conventional e-mail client – is the program that actually sends the message and the media over the network.* The claimed invention provides for functionality in one computer program, in other words, that Budge divides over two different computer programs.

For this reason, Budge does not anticipate the claimed invention. Applicant is amenable to adding other limitations to the claims if doing so would result in allowance, and to this end, the

Examiner is requested to contact Applicant's representative, Mike Dryja, at the phone number listed below, if he wishes to allow this case by adding other limitations to the pending claims, and thus if he does not wish to see this patent application go on appeal again. In any case, Applicant submits that this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Michael Dryja", written over a horizontal line.

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Date

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